

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kimberly Eldridge	Team: Team # 4	CCRB Case #: 201108401	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/24/2011 2:28 AM	Location of Incident: McDonalds restaurant (136 West 3rd Street)	Precinct: 06	18 Mo. SOL 12/24/2012	EO SOL 12/24/2012	
Date/Time CV Reported Fri, 06/24/2011 3:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/29/2011 1:08 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Hom	09652	940269	006 PCT
2. POM Purnell Lancaster	02682	940356	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Douglas Lee	06978	938837	006 PCT
2. POM Brian Ferguson	06843	938470	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Hom	Force: Officer Jonathan Hom used physical force against § 87(2)(b)	
B.POM Purnell Lancaster	Force: Sergeant Purnell Lancaster used physical force against § 87(2)(b)	
C.POM Jonathan Hom	Force: Officer Jonathan Hom struck § 87(2)(b) with an asp.	
D.POM Purnell Lancaster	Force: Sergeant Purnell Lancaster struck § 87(2)(b) with an asp.	
E.POM Jonathan Hom	Force: Officer Jonathan Hom struck § 87(2)(b) with a flashlight.	
F.POM Purnell Lancaster	Force: Sergeant Purnell Lancaster struck § 87(2)(b) with a flashlight.	
G.POM Jonathan Hom	Force: Officer Jonathan Hom used pepper spray against § 87(2)(b)	

Case Summary

On June 24, 2011, § 87(2)(b) filed this complaint via phone with IAB on behalf of § 87(2)(b). On June 29, 2011, IAB forwarded § 87(2)(b)'s complaint to the CCRB under log number 11-29235. At 2:09AM on June 24, 2011, Officer Jonathan Hom and Sergeant Purnell Lancaster, both of whom were assigned to the 6th Precinct, arrested § 87(2)(b) in the vicinity of 136 West 3rd Street in Manhattan. The following allegations resulted from the officers' actions:

- **Allegation A) Force: Officer Jonathan Hom used physical force against § 87(2)(b)**
- **Allegation B) Force: Sergeant Purnell Lancaster used physical force against § 87(2)(b)**
§ 87(2)(g)
- **Allegation C) Force: Officer Jonathan Hom struck § 87(2)(b) with an asp.**
- **Allegation D) Force: Sergeant Purnell Lancaster struck § 87(2)(b) with an asp.**
§ 87(2)(g)
- **Allegation E) Force: Officer Jonathan Hom struck § 87(2)(b) with a flashlight.**
- **Allegation F) Force: Sergeant Purnell Lancaster struck § 87(2)(b) with a flashlight.**
§ 87(2)(g)
- **Allegation G) Force: Officer Jonathan Hom used pepper spray against § 87(2)(b)**
§ 87(2)(g)

Results of Investigation

Civilian Statement

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old white male who is 5'6" tall and weighs 195 pounds. § 87(2)(b) is bald and has hazel eyes. At the time of his CCRB interview, § 87(2)(b) was a § 87(2)(b)

Arrest Photo

In his arrest photo, § 87(2)(b) has abrasions on his left cheek, below his lip, and above his left eyebrow (enc. C9).

Photos of Injuries

During his CCRB interview, § 87(2)(b) provided photos of his injuries, which were allegedly taken on the evening of June 24, 2011 by § 87(2)(b)'s criminal attorney, § 87(2)(b) (enc. C10-C12). In the first picture, § 87(2)(b) has abrasions to his left cheek, below his lip, and above his left eyebrow. The second picture is of § 87(2)(b)'s knees, and he appears to have abrasions on both. The third picture shows an abrasion to § 87(2)(b)'s right elbow.

CCRB Statement

On October 17, 2011 § 87(2)(b) was interviewed at the CCRB (enc. C6-C12). § 87(2)(b)'s criminal attorney, § 87(2)(b), was also present for the interview. § 87(2)(b)'s statement is summarized below.

Shortly before 2:00AM on June 24, 2011, § 87(2)(b) purchased food at the McDonalds restaurant on West 3rd Street and 6th Avenue in Manhattan. Prior to this, § 87(2)(b) was at a club called The Village Underground, § 87(2)(b). § 87(2)(b) had "a couple" of beers over the course of approximately two and a half hours while waiting for the set, and did not recall whether he had any additional alcoholic beverages. § 87(2)(b) was not intoxicated or otherwise affected by the alcohol.

§ 87(2)(b) left his food on a table while he returned to the counter to request sauce for his french fries. When § 87(2)(b) returned to his table, he realized that someone had stolen his french fries. § 87(2)(b) spoke with both a security guard and a manager at the McDonalds, and asked them to replace his french fries. Both the security guard and the manager refused to do so. § 87(2)(b) did not use profanity, but became highly agitated and stated that he was going to call the cops.

Three to four minutes after § 87(2)(b) called the cops, Officer Jonathan Hom, a 5'8" tall Asian male in uniform, and Sergeant Purnell Lancaster, a 6'2" tall black male in uniform, both of whom § 87(2)(b) identified by name and were assigned to the 6th Precinct at the time of this incident, arrived at the location in a marked police vehicle. § 87(2)(b) exited the McDonalds and met the officers outside. § 87(2)(b) explained the situation, at which time the officers told him that they could not help him and advised him to file a complaint with the Better Business Bureau. During his five minute conversation with the officers, § 87(2)(b) stood two to three feet away from the officers and spoke in a conversational tone. § 87(2)(b) did not raise his voice nor did he use profanity.

As the conversation drew to a close, Sergeant Lancaster approached § 87(2)(b) and used one hand to push him backwards against the wall. Sergeant Lancaster stated to § 87(2)(b) "You need to calm down. You just need to take it easy." By this time, § 87(2)(b) had become very frustrated. § 87(2)(b) stated that he was taking it easy and he was going to go into McDonalds to get the rest of his food. Neither of the officers said anything to § 87(2)(b) or ordered him not to enter the McDonalds. § 87(2)(b) then stated, "I'm used to being burned by you niggas anyway." At that time, one of the officers, § 87(2)(b) did not know which one, swung on § 87(2)(b) who avoided the blow by ducking down. The officers then grabbed § 87(2)(b)'s upper body and head, but § 87(2)(b) pulled away, pushed them back, and attempted to leave the area. Officer Hom and Sergeant Lancaster grabbed § 87(2)(b) again and tackled him to the ground. § 87(2)(b) was not sure how the officers managed to get him to the ground and was unable to articulate where on his person the officers were holding him or how they were holding him. § 87(2)(b) used his "wrestling skills" to get out of the officers' hold and stand up. At no time did § 87(2)(b) punch, kick, or push the officers to fight them off, but he did twist and turn his body and refuse to allow the officers to grab his arms. One of the officers, identified via the CCRB investigation as Officer Hom, began to strike § 87(2)(b) in the legs with his asp. The officers were not issuing § 87(2)(b) directives at this time and never told § 87(2)(b) that he was under arrest.

The officers continued to grab at § 87(2)(b)'s arms and torso, but § 87(2)(b) continued to "outwrestle" them. Officer Hom continued to strike § 87(2)(b) with his asp and Sergeant Lancaster also began to strike § 87(2)(b) with his asp. Both Officer Hom and Sergeant Lancaster punched § 87(2)(b) in his hands, torso, and face numerous times. They also kicked at his legs in an effort to take him to the ground again. While punching § 87(2)(b) and striking him with asps, both officers also struck him repeatedly with large flashlights "all over" his body. Somehow, the officers managed to push § 87(2)(b) to the ground again. Once on the ground, both officers simultaneously struck § 87(2)(b) in the face and legs with their hands, asps, and flashlights. Again, § 87(2)(b) managed to

“outwrestle” the officers. § 87(2)(b) got to his feet a second time, pulled away from the officers, and ran east on West 3rd Street. Officer Hom followed § 87(2)(b) on foot. § 87(2)(b) did not see Sergeant Lancaster running after him.

Officer Hom did not issue any directives to § 87(2)(b) as he ran. § 87(2)(b) became tired and began to slow down. As § 87(2)(b) ran, he turned around and stated, “You guys gotta calm down! Calm down! I will stop running if you stop hitting me!” As Officer Hom closed the gap between himself and § 87(2)(b) Officer Hom struck § 87(2)(b) at least once on the left side of his face with a large flashlight. § 87(2)(b) made it to the intersection of West 3rd Street and MacDougal Street, and was cut off by a passing car. § 87(2)(b) stopped running and turned around, at which time he observed Officer Hom pull out his mace. § 87(2)(b) stated, “Please don’t mace me!” and his hands were down and at his sides. Without saying anything, Officer Hom pepper sprayed § 87(2)(b) once in the face. § 87(2)(b) could no longer see or breathe. Officer Hom told § 87(2)(b) to get onto the ground and § 87(2)(b) immediately complied. § 87(2)(b) was immediately handcuffed without further incident. Officer Hom and Sergeant Lancaster transported § 87(2)(b) to the 6th Precinct stationhouse. § 87(2)(b) was charged with § 87(2)(b)

As a result of this incident, § 87(2)(b) stated that he suffered a “cracked” skull which ruptured his brain membrane and caused him to leak brain fluid for thirty-seven days. § 87(2)(b) also suffered a popped left ear drum. § 87(2)(b) had scrapes and bruises on both of his arms and legs, and a large laceration underneath his left eye. § 87(2)(b) was treated for his pepper spray exposure and was taken to § 87(2)(b) a couple of hours after he was arrested. § 87(2)(b) however, refused medical attention because he did not like the way that the nurses spoke to him. § 87(2)(b) did not obtain any additional treatment while in police custody.

§ 87(2)(b) was released from police custody late on June 24, 2011 or early on the morning of June 25, 2011. On the evening of June 25, 2011 and throughout the day on June 26, 2011, § 87(2)(b) § 87(2)(b) § 87(2)(b). On June 26, 2011, § 87(2)(b) attempted to make an appointment with an ear, nose, and throat specialist, but was unable to do so because there were no appointments available. § 87(2)(b) did not seek any treatment at an emergency room because he believed that they did not have the resources needed to properly treat his injury. On either June 28 or June 29, 2011, § 87(2)(b) flew to Chicago to obtain medical treatment from an ear, nose, and throat specialist. § 87(2)(b) obtained medical treatment from three different doctors in Chicago. When § 87(2)(b) finally returned to New York City, he obtained follow-up treatment from another specialist. § 87(2)(b) did not recall the names or contact information for any of the physicians who treated him. § 87(2)(b) refused to sign a HIPPA form on § 87(2)(b) advice. § 87(2)(b) stated that she would forward any medical records that she obtained to the investigator if and when she obtained them.

Complainant/Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male. § 87(2)(b) does not have any type of relationship with § 87(2)(b)

Statement to IAB

On June 24, 2012, § 87(2)(b) filed this complaint with IAB, at which time he provided a statement about what occurred (enc. C5). § 87(2)(b)'s statement is summarized below.

In the early morning hours of June 24, 2011, § 87(2)(b) and a male individual whom he knew only as “§ 87(2)(b)” but whom the CCRB identified as § 87(2)(b) were inside of the McDonalds restaurant on West 3rd Street off of Sixth Avenue in Manhattan when an unidentified individual stole § 87(2)(b)'s food off of his tray. § 87(2)(b) spoke with the restaurant’s manager, who called the police and stated that § 87(2)(b) was being a problem. Two police officers, Officer Jonathon Hom

and Sergeant Purnell Lancaster, both of whom were assigned to the 6th Precinct, responded to the location. § 87(2)(b) exited the restaurant to speak with the officers, and § 87(2)(b) followed him outside. Officer Hom explained that there was nothing they could do about the situation. § 87(2)(b) asked the officers to convince the manager to replace the stolen food, at which time Sergeant Lancaster stated, “No. Fuck you, dude. There’s nothing we can do about it. That’s it. If you want to file a complaint, you can.” § 87(2)(b) asked Sergeant Lancaster why he was using profanity at which time Sergeant Lancaster stated, “You wanna get arrested? Go back in there and do what you gotta do or you’re gonna get arrested.” § 87(2)(b) stated that the officers could not arrest him because he did not do anything wrong. Sergeant Lancaster pushed § 87(2)(b) one time, causing him to stumble backwards. Officer Hom and Sergeant Lancaster then punched § 87(2)(b) in the abdomen and ribs. The officers “tussled” with § 87(2)(b) who managed to pull away from them. The officers then struck § 87(2)(b) with batons. Somehow, § 87(2)(b) ended up on the ground, but he got up and ran away. The officers followed on foot. § 87(2)(b) was arrested, but § 87(2)(b) did not see how or where he was arrested. § 87(2)(b) was removed to the 6th Precinct stationhouse. § 87(2)(b) went to the 6th Precinct stationhouse to inquire about § 87(2)(b)’s wellbeing, at which time he observed § 87(2)(b) with bruising and redness to his face.

When § 87(2)(b) filed this complaint, he provided an address at which he could be reached, but explicitly stated that he was calling from a payphone and did not have a phone number at which he could be reached. Searches of 411.com, the Manhattan COLE directory, and the Lexis Nexis database failed to provide any possible phone numbers for § 87(2)(b) at his reported address. A please call letter sent to § 87(2)(b)’s reported address was returned to the CCRB as unable to forward by the United States Postal Service (USPS). A second search of the Lexis Nexis database provided two additional possible addresses for § 87(2)(b) in New Jersey, but there were no phone numbers linked to either of the Lexis Nexis provided addresses. On July 12, 2011 and July 19, 2011, the investigator sent a please call letter to each of the Lexis Nexis provided addresses. None of the please call letters to the Lexis Nexis addresses have been returned to the CCRB as unable to forward by the USPS. A search of the New York City Department of Correction Inmate Locator Services website confirmed that § 87(2)(b) has not been incarcerated. To date, § 87(2)(b) has not contacted the investigator.

NYPD Statements

Subject Officer: OFFICER JONATHAN HOM (6th Precinct)

- *Officer Jonathan Hom is a § 87(2)(b)-old Asian male who is 5’7” tall and weighs 173 pounds. Officer Hom has black hair and brown eyes.*
- *On June 24, 2011, Officer Hom worked from 11:15PM the previous day to 7:50AM that morning. Officer Hom and his partner, Sergeant Purnell Lancaster, were dressed in uniform and were assigned to patrol sectors A and B in a marked RMP.*

Memo Book

Officer Hom had two memo book entries regarding this incident (enc. D1-D3). At 2:13AM, Officer Hom and Sergeant Lancaster responded to a dispute at 137 West 3rd Street. At 2:28AM, a person was arrested for § 87(2)(b) following a foot pursuit that led officers east on West 3rd Street and north on MacDougal Street. Officer Hom used pepper spray and a baton during the apprehension.

Arrest Paperwork

Officer Hom created a Complaint Report, OLBS worksheet, and Criminal Court Complaint for § 87(2)(b)’s arrest (enc. D4-D5, D7-D8, and D9-D10). The narratives in all of the documents are the same, and state that § 87(2)(b) § 87(2)(a) 160.50

§ 87(2)(a) 160.50

§ 87(2)(b) was charged with § 87(2)(a) 160.50.

CCRB Statement

On June 13, 2012, Officer Hom was interviewed at the CCRB (enc. D11-D13). Officer Hom's statement is summarized below.

Officer Hom and Sergeant Lancaster responded to a dispute at the McDonalds restaurant located on West 3rd Street in Manhattan. Officer Hom and Sergeant Lancaster entered the McDonalds and spoke with the manager, who explained that a male individual, later identified by the NYPD as § 87(2)(b) was upset because someone had allegedly stolen his french fries and because the restaurant would not replace the allegedly stolen fries. The manager then asked the officers to escort § 87(2)(b) off of the premises.

Officer Hom and Sergeant Lancaster approached § 87(2)(b) who provided his version of events and asked the officers to force the manager to give him more fries. Officer Hom explained that they could not do so, and advised § 87(2)(b) to contact the Better Business Bureau to file a complaint. As the officers and § 87(2)(b) spoke, the officers repeatedly asked § 87(2)(b) to take the remainder of his food and leave the premises. The officers also moved towards the entrance, causing § 87(2)(b) to follow them. § 87(2)(b) smelled of alcohol, which led Officer Hom to believe that § 87(2)(b) had been drinking and may have been intoxicated. As the officers spoke with § 87(2)(b) he became increasingly upset. As the officers and § 87(2)(b) neared the entrance to the McDonalds, § 87(2)(b) stated to the officers, "If you're not going to get my fries, I'm going to go back, jump over the counter, and punch him out." Officer Hom told § 87(2)(b) that he would be arrested if he did so, and advised § 87(2)(b) to follow him and Sergeant Lancaster outside. When § 87(2)(b) again threatened to harm the manager, Sergeant Lancaster and Officer Hom each placed a hand on one of § 87(2)(b)'s shoulders and walked him outside of the McDonalds.

Once outside of the McDonalds, § 87(2)(b) shrugged his shoulders, turned towards Sergeant Lancaster, pushed him in the chest, and stated, "Get your hand off me, nigger." The push was forceful enough to cause Sergeant Lancaster to stumble backwards and make contact with the wall. Sergeant Lancaster regained his balance and immediately grabbed § 87(2)(b) in a bear hug from behind. § 87(2)(b) is of a larger build than Sergeant Lancaster and he moved his body around, swinging Sergeant Lancaster back and forth as if Sergeant Lancaster was a rag doll. Officer Hom told § 87(2)(b) to stop and get down to the ground one time and when § 87(2)(b) did not comply, Officer Hom used his asp to strike § 87(2)(b) one time in the left leg. Officer Hom did not strike § 87(2)(b) anywhere else on his person. Sergeant Lancaster never had his asp out and never struck § 87(2)(b) with an asp. At no time did Officer Hom or Sergeant Lancaster punch, kick, or otherwise strike § 87(2)(b). Officer Hom carries a flashlight that is approximately six inches long and less than an inch in diameter. At no time during the incident did Officer Hom have his flashlight out. At no time during the incident did Officer Hom or Sergeant Lancaster strike § 87(2)(b) with flashlights.

Sergeant Lancaster was unable to maintain his grip on § 87(2)(b) who pulled away and ran east on West 3rd Street. Sergeant Lancaster slipped and fell while Officer Hom followed § 87(2)(b) on foot. As Officer Hom ran after § 87(2)(b) he went over the radio to report that he had a foot pursuit. Officer Hom never lost sight of § 87(2)(b) who was approximately twenty feet ahead of him.

Officer Hom caught up to § 87(2)(b) at the intersection of MacDougal Street and West 4th Street, which is near Washington Square Park. Officer Hom yelled at § 87(2)(b) “Stop! Get down!” When Officer Hom was a few feet behind him, § 87(2)(b) suddenly turned around, faced Officer Hom and stood in a fighting stance, with his hands in fists and up at chest level. Officer Hom did not know if § 87(2)(b) was going to strike him, so he immediately pepper sprayed § 87(2)(b) once in the face. § 87(2)(b) did not appear to be affected by the pepper spray. Officer Hom immediately brandished his asp and again told § 87(2)(b) to get down to the ground. When § 87(2)(b) failed to comply with the directive, Officer Hom struck § 87(2)(b) once on the left leg with his asp. The blow caused § 87(2)(b) to fall forward and face down onto the ground. Officer Hom immediately got on top of § 87(2)(b) and pulled his arms behind his back. § 87(2)(b) attempted to pull away, but was unsuccessful. Officer Hom handcuffed § 87(2)(b). Sergeant Lancaster arrived at the location after § 87(2)(b) was handcuffed. At this time, Officer Ferguson and Officer Lee arrived at the location in a marked RMP. Officer Ferguson and Officer Lee were the only additional officers who arrived at the location.

§ 87(2)(b) had a scrape to one side of his face, which he obtained when Officer Hom took him to the ground and § 87(2)(b)'s face rubbed against the concrete. Officer Hom did not see any additional injuries on § 87(2)(b)'s person, and § 87(2)(b) did not complain of any additional injury. § 87(2)(b) was transported to the 6th Precinct stationhouse, where he was charged with § 87(2)(a) 160.50.

Subject Officer: SERGEANT PURNELL LANCASTER (6th Precinct)

- *Sergeant Purnell Lancaster is a § 87(2)(b)-old black male who is 5'9" tall and weighs 190 pounds. Sergeant Lancaster has black hair and brown eyes.*
- *On June 24, 2011, Sergeant Lancaster worked from 11:15PM the previous day to 7:50AM that morning. Sergeant Lancaster and his partner, Officer Jonathon Hom, were dressed in uniform and were assigned to sector patrol in a marked RMP.*

Memo Book

Sergeant Lancaster had two memo book entries regarding this incident (enc. D14-D16). At 2:13AM, Sergeant Lancaster and Officer Hom responded to a dispute at 137 West 3rd Street. At 2:23AM, one person was under arrest for § 87(2)(a) 160.50.

CCRB Statement

On August 15, 2012, Sergeant Lancaster was interviewed at the CCRB (enc. D17-D19). Sergeant Lancaster's statement is summarized below.

Sergeant Lancaster's reason for responding to the McDonalds was the same as that of Officer Hom. As soon as Sergeant Lancaster and Officer Hom pulled up in front of the McDonalds, § 87(2)(b) approached them while they were still inside of their vehicle. There were no McDonalds employees outside at the time and at no time did Sergeant Lancaster or Officer Hom speak with any McDonalds employees.

§ 87(2)(b) explained the situation and the officers advised him to contact the appropriate agency to file a complaint. § 87(2)(b) and the officers discussed the situation for approximately fifteen minutes, during which § 87(2)(b) became increasingly angry and raised his voice. § 87(2)(b)'s eyes were red, his speech was slurred, and his behavior had become increasingly erratic, all of which led Sergeant Lancaster to believe that § 87(2)(b) was intoxicated. Finally, the officers told § 87(2)(b) that there was nothing that they could do to assist him and informed him that they had to leave the location. § 87(2)(b) responded, “If you're not going to do nothing, somebody is going to get fucked up.” § 87(2)(b) turned around and proceeded to walk towards the entrance of the McDonalds, at which time Sergeant Lancaster exited the vehicle, ran after § 87(2)(b) and grabbed

his arm to prevent him from going any further towards the entrance. Officer Hom also exited the vehicle at this time. The officers were afraid that § 87(2)(b) was going to enter the McDonalds and attempt to engage the manager or other employees in a physical altercation. § 87(2)(b) immediately elbowed Sergeant Lancaster in the chest and stated, "Get off of me, nigger." Sergeant Lancaster and Officer Hom grabbed § 87(2)(b) by the arms and the upper body and attempted to place him in handcuffs to prevent him from striking out at the officers again and because he was being arrested for disorderly conduct. § 87(2)(b) struggled with the officers by pulling his arms away and wrestling out of their grip. Sergeant Lancaster and Officer Hom repeatedly told § 87(2)(b) to calm down and stop resisting, but § 87(2)(b) did not comply with their directives. Officer Hom used his asp to strike § 87(2)(b) in the leg while Sergeant Lancaster attempted to gain control of § 87(2)(b)'s arms. Sergeant Lancaster carries an asp, but at no time did he brandish it or use it to strike § 87(2)(b). § 87(2)(b) Sergeant Lancaster carries a small flashlight that is approximately six inches long and an inch in diameter. At no time did Sergeant Lancaster or Officer Hom strike § 87(2)(b) with flashlights. This area is very busy and by this time, a crowd had begun to form at the location. None of the individuals in the crowd, however, attempted to interfere with § 87(2)(b)'s arrest.

After struggling to handcuff § 87(2)(b) for several minutes, § 87(2)(b) was able to break free from the officers and run east on West 3rd Street. Officer Hom and Sergeant Lancaster followed § 87(2)(b) on foot. When § 87(2)(b) made a left on MacDougal Street, Sergeant Lancaster temporarily lost sight of him. The officers, however, were not very far behind § 87(2)(b) and saw him running towards Washington Square Park. The officers did not issue § 87(2)(b) directives as they ran. The officers closed the gap and caught up to § 87(2)(b) as he neared the entrance to the park. Sergeant Lancaster grabbed § 87(2)(b) from behind at the same time that Officer Hom pepper sprayed § 87(2)(b). Sergeant Lancaster repeatedly told § 87(2)(b) to stop resisting as he and Officer Hom managed to wrestle § 87(2)(b) to the ground. Once on the ground, § 87(2)(b) continued to move his arms around and make it difficult for Sergeant Lancaster to handcuff him. After a few moments, however, Sergeant Lancaster and Officer Hom were each able to grab one of § 87(2)(b)'s arms and pull them behind his back. Sergeant Lancaster handcuffed § 87(2)(b). The officers then went over the radio and reported that they had an arrest. Additional units responded to the location shortly thereafter. Sergeant Lancaster and Officer Hom transported § 87(2)(b) to the 6th Precinct stationhouse. § 87(2)(b) had small scratches on his face, but did not appear to have any additional injuries. § 87(2)(b) did not complain of any additional injuries.

Witness Officer: OFFICER BRIAN FERGUSON (6th Precinct)

- *Officer Brian Ferguson is a § 87(2)(b)-old white male who is 5'9" tall and weighs 150 pounds. Officer Ferguson has brown hair and hazel eyes.*
- *On June 24, 2011, Officer Ferguson worked from 11:15PM the previous day to 7:50AM that morning. Officer Ferguson and his partner, Officer Douglass Lee, were dressed in uniform and were assigned to patrol sectors C, D, and G in marked RMP 5064.*

Memo Book

Officer Ferguson had several memo book entries regarding this incident (enc. D20-D22). At 2:25AM, Officer Ferguson responded to a call for assistance at West 4th Street and MacDougal Street. When Officer Ferguson arrived at the location, he observed that the officers assigned to sector 6A already had one male individual under arrest. Officer Ferguson and Officer Lee transported the arrested individual back to the stationhouse and arrived at the stationhouse at approximately 2:33AM.

CCRB Statement

On August 2, 2012, Officer Ferguson was interviewed at the CCRB (enc. D23-D24). Officer Ferguson and Officer Lee responded to the incident after § 87(2)(b) had been apprehended. § 87(2)(b)

§ 87(2)(b) was already in handcuffs when they responded to the location, which was at the end of the foot pursuit. Officer Ferguson did not observe any officer use physical force against § 87(2)(b). § 87(2)(b) was placed into Officer Ferguson's RMP. Officer Ferguson did not recall § 87(2)(b)'s demeanor during transport and did not recall if § 87(2)(b) made any statements. Officer Ferguson did not recall whether § 87(2)(b) was injured. After dropping § 87(2)(b) off at the 6th Precinct stationhouse, Officer Ferguson did not have any additional contact with him.

Officers Not Interviewed

Officer Lee was not interviewed § 87(2)(g)

Medical Records

When § 87(2)(b) and his attorney appeared at the CCRB for § 87(2)(b)'s interview, § 87(2)(b) refused to sign HIPPA forms so that the CCRB could obtain his medical records. Moreover, § 87(2)(b)'s attorney stated that he would not sign HIPPA forms at any point, and that she would forward any medical records she received after she obtained them. The investigator attempted to contact § 87(2)(b)'s attorney twice to obtain § 87(2)(b)'s medical records, leaving voicemail messages on each occasion. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

When the investigator contacted § 87(2)(b)'s attorney a third time, the attorney informed the investigator that she did not have his medical records, and because § 87(2)(b) the investigator should contact § 87(2)(b) directly and ask him to complete the HIPPA forms so that his medical records could be obtained. Between April 20, 2012 and August 20, 2012, the investigator contacted § 87(2)(b) a total of four times via phone and sent him three please call letters via mail and three please call letters via e-mail. On May 22, 2012, § 87(2)(b) contacted the investigator and agreed to complete and sign HIPPA forms so that his medical records could be subpoenaed. On May 22, 2012, the investigator sent § 87(2)(b) three HIPPA forms to complete as well as a pre-addressed and stamped envelope that he could use to return the forms. When § 87(2)(b) did not return the forms, the investigator attempted to contact him. On August 8, 2012, § 87(2)(b) left a message for the investigator in which he acknowledged that he'd had the forms for over two months and had yet to forward them to the investigator. § 87(2)(b) stated that he would do so the next day. When § 87(2)(b)'s forms did not arrive, the investigator again contacted § 87(2)(b) who stated that he sent the forms via mail on an unknown date, and had no explanation as to why they had not reached the CCRB.

Disposition of Arrest

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with the City of New York regarding this incident (enc. G1-G4).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first and only CCRB complaint for [§ 87(2)(b)] and [§ 87(2)(b)] (enc. B3 and B4).

Subject Officer CCRB History

- The CCRB has not substantiated any allegations against Officer Hom or Sergeant Lancaster in their six years of service to the NYPD (enc. B1 and B2).

Conclusion

Identification of Subject Officers

- Officer Hom and Sergeant Lancaster acknowledged interacting with [§ 87(2)(b)]

Investigative Findings and Recommendations

Allegations not Pleaded

[§ 87(2)(g)]

- **Allegation A) Force: Officer Jonathan Hom used physical force against [§ 87(2)(b)]**
- **Allegation B) Force: Sergeant Purnell Lancaster used physical force against [§ 87(2)(b)]**

[§ 87(2)(b)] alleged that Officer Hom and Sergeant Lancaster tackled him to the ground, and that once he managed to stand up, Officer Hom and Sergeant Lancaster punched him repeatedly in the arms, face and torso, and kicked him multiple times in the legs. [§ 87(2)(b)] alleged to IAB that Officer Hom and Sergeant Lancaster repeatedly punched [§ 87(2)(b)] in the torso, but did not allege that the officers struck [§ 87(2)(b)] in the face and did not allege that the officers kicked him in the legs. Both Officer Hom and Sergeant Lancaster denied punching or kicking [§ 87(2)(b)] but did acknowledge that they grabbed his arms and torso and repeatedly attempted to wrestle [§ 87(2)(b)] to the ground. Both Officer Hom and Sergeant Lancaster denied using additional force against [§ 87(2)(b)]

Patrol Guide Procedure 203-11 regarding the use of force states that officers can use only the minimum amount of force necessary to overcome resistance and effect an arrest (enc. A1-A2).

It is undisputed that [§ 87(2)(b)] resisted arrest by wrestling with the officers, pulling away from them, standing up after the officers had taken him to the ground, refusing to be handcuffed, and both attempting and managing to flee the scene. [§ 87(2)(g)]

[§ 87(2)(b)]'s arrest photo and the photos that he provided to the CCRB showed that [§ 87(2)(b)] had abrasions to the left side of his face, both knees, and his left elbow. [§ 87(2)(g)]

§ 87(2)(g)

§ 87(2)(g)

- **Allegation C) Force: Officer Jonathan Hom struck § 87(2)(b) with an asp.**
- **Allegation D) Force: Sergeant Purnell Lancaster struck § 87(2)(b) with an asp.**

§ 87(2)(b) alleged that Officer Hom and Sergeant Lancaster struck him on the legs, arms, torso, and face with their asps. § 87(2)(b) alleged to IAB that the officers struck § 87(2)(b) with asps, but did not state where on § 87(2)(b)'s person the officers did so. Officer Hom conceded to striking § 87(2)(b) twice on the left leg with his asp, and stated that he did so because § 87(2)(b) was resisting arrest by refusing to get to and stay on the ground and failing to comply with officer directives. Both Officer Hom and Sergeant Lancaster denied that Sergeant Lancaster struck § 87(2)(b) with an asp.

There is no Patrol Guide Procedure that deals specifically with the use of an asp during an arrest, but Patrol Guide Procedure 203-11, which states that officers can use only the minimum amount of force necessary to overcome resistance and effect an arrest, is applicable in this instance (enc. A1-A2).

It is undisputed that § 87(2)(b) resisted arrest and that he refused to get to the ground and stay there. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: 4

Investigator:	_____	<u>Kimberly Eldridge</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date